IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 1010 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAFIKKHAN MOHMEDKHAN PATHAN
Versus
STATE OF GUJARAT

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Appearance :
MR ASHISH M DAGLI for Applicant
MS DS PANDIT APP for Respondent

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA
Date : 23/12/2005

ORAL JUDGMENT

1 RULE. Waived by learned APP Ms. D.S.Pandit for the respondent State. Heard learned Advocate Mr.

Ashish Dagli for the applicant and learned APP Ms. Pandit for the respondent – State.

2 This Revision Application is directed against an order dated 23rd of September, 2005 delivered by learned Judicial Magistrate First Class, Kathor, under Section 451 of the Code of Criminal Procedure, entrusting custody of muddamal Truck No. GTG 2263 to the applicant on condition that the applicant shall furnish surety of Rs. 13,50,000/- and personal bond along with certain conditions. This truck came to be seized by the Police under Crime Register No. III – 609 of 2005 registered before Prohibition Police Station, Mangrol.

3 Only limited grievance which is expressed in this Revision Application is, the truck which is seized and ordered to be delivered to the applicant is of 1972 Model, for which, the amount of bond fixed by the learned JMFC, is at very high side and said amount be reduced to reasonable extent. It is submitted that the truck is old one and is of 1972

Model.

4 Going through the record, it appears that the value of the truck is mentioned in the panchnama drawn by the Investigating Agency to be Rs. 13,50,000/- and hence the Trial Court directed to furnish the bond as well as surety of said amount. It is not disputed that the truck is of 1972 Model. In addition to that, learned Advocate for the applicant has placed on record Valuation Report of the said truck as undertaken by Government approved valuer, copy of which is placed at page 19 of this compilation, and accordingly, the approximate value of the Truck in question would be Rs. 75,000/- only.

5 In view of above, this Revision Application is allowed to the extent that the applicant is directed to furnish surety of Rs. 1,50,000/- (Rupees one lakh and fifty thousand only) and personal bond of like amount instead of Rs. 13,50,000/- as directed by the learned JMFC, Kathor. Except this extent, no further interference is made in the order impugned. The

Revision Application therefore is partly allowed and rule made absolute to the above extent. DS permitted.

(J.R.VORA, J.)

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